IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY
And
THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO: 8894 of 2004

Between:

1 The Secretary to Govt. of A.P., F&P Dept.,A.P.Hyderabad.
2 The Director of Treasuries & Accounts, A.P.Hyderabad.
3 The Andhra Pradesh Public Service Commission rep.by its Secretary,Hyderabad.
4 The Deputy Director of T&A Dept., and Enquiry officer, O/o.The DTA, A.P., Hyderabad.
5 The pay and Accounts officer, A.P.,Hyderabad.

... PETITIONER (S)

AND

Sri D.Hanumantha Reddy, Retd.P.P.O/Accounts officer,
R/o.Satya Nilayam, H.No.14-8/S.Srinivasapuram, Ramanthapur, Hyderabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a writ particularly one in the nature of writ of certiorari calling for the records relating to the order of the Hon'ble A.P. Administrative Tribunal dated: 05-12-2003 in O.A.No.7997/1997 and to quash the same and to pass such other order or orders as deemed fit and proper in the circumstances of the case.

For the Petitioners: GP FOR SERVICES II

For the Respondent : None appeared

The Court Made the Following:

ORDER: (per GB,J)

This Writ Petition is filed by the State challenging the order passed by the A.P. Administrative Tribunal (for short Tribunal) in O.A.No.7997 of 1997 dated 05-12-2003.

2. The respondent filed an application before the Tribunal to declare the order passed by the 1st respondent-Secretary to Government of A.P, Finance & Planning Department, Secretariat, Hyderabad in proceedings Memo No.4594/18/A3/93/Admn.I dated 25-10-1997 and the order passed by the Government in G.O.Ms.No.308 dated 16-08-1993, imposing 10 per cent cut in normal pension as null and void. The said application was allowed by the learned Tribunal on the ground that the Government lacked the jurisdiction to initiate disciplinary proceedings against the employee at the relevant time. Against the said order, the present Writ Petition has been filed by the State.

3. The learned Government Pleader for Services-II submits that the order passed by the learned Tribunal is illegal and contrary to law. He submits that even though there is provision for referring the matter to the Tribunal for disciplinary proceedings, yet option is always left to the Government to deal with the matter departmentally or refer it to the Tribunal, and therefore the order is liable to be set aside.

4. We are afraid we cannot accept the contention raised by the learned Government Pleader. The issue is squarely covered by the decision of Supreme Court in **STATE OF A.P. V. K. RAMACHANDRAN**[1], wherein it was held that it is mandatory to refer the case of a Government

employee to the Tribunal for disciplinary proceedings under Section 4 of the A.P. Civil Services (Disciplinary Proceedings Tribunal) Act, 1960 read with Rule 3 of A.P.C.S (Disciplinary Proceedings Tribunal) Rules, 1961. Inasmuch as the disciplinary proceedings were initiated prior to the amendment, it is mandatory for the Government to refer the matter to the Tribunal for disciplinary proceedings only and it has no power to conduct the disciplinary enquiry. Under those circumstances, the Tribunal had set aside the order and allowed the O.A. However, the Tribunal observed that it did not preclude the authorities to take further action in the matter against the employee in accordance with Rule 9 of the A.P. Revised Pension Rules.

5. In view of the above, we do not find any ground to interfere with the order passed by the Tribunal. Accordingly the Writ Petition is dismissed. No costs.

ASSISTANT REGISTRAR

June 15, 2004

// TRUE COPY //

SECTION OFFICER

To

1.Two CCs to G.P for services-II, High Court of A.P., Hyderabad (OUT)

2. Two C.D. Copies

3. The A.P. Administrative Tribunal, Hyderabad.

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[1] AIR 1998 SC 1093